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SENIOR DEMOCRATIC MEMBER
COMMITTEE ON GOVERNMENT
REFORM
MEMBER
COMMITTEE ON ENERGY AND
COMMERCE

Congress of the United States
House of Representatives
Washington, DC 20515-0529

HENRY A. WAXMAN
29TH DISTRICT, CALIFORNIA

August 2, 2001

Mr. Andrew Lack
President and Chief Operating Officer
NBC
30 Rockefeller Plaza
New York, NY 10112-0002

Dear Mr. Lack:

I received your July 31, 2001, letter yesterday and am disappointed by your reply. Before taking steps to try to compel the production of the videotapes I am seeking, I wanted to write one last time to make sure you understand both my request and the events of the last six months.

What I am seeking are copies of advertising and promotion videotapes that show how NBC covered the November 7, 2000, election. I am seeking these tapes so that I can definitively verify or refute allegations others have made that John Welch, the Chairman and CEO of General Electric, interfered with NBC's 2000 election results. Your initial written response was artfully worded to imply that no tape of the election night coverage exists. But since that letter, NBC has confirmed to my office that in fact an advertising and promotion videotape from election night unquestionably exists.

I first raised this issue at a February 14, 2001, hearing of the House Energy and Commerce Committee. During the hearing, I referred to a persistent rumor that Jack Welch interfered with NBC's decision-making on election night. In doing so, I was very careful not to accept the rumor as fact and said the following:

There is an allegation making the rounds that Jack Welch actually intervened in NBC's decision to call the election for George Bush....I would hope the allegation is untrue. If it were, it would be absolutely inappropriate. But I've been told that Mr. Welch's actions were observed by others and in fact were even captured on tape, filmed by NBC's advertising and promotions department. It's difficult for me to believe it's true, but it seems there is a simple way to either verify or debunk this allegation. I would like to have you....assure us that we would get that tape.

Mr. Andrew Lack
August 2, 2001
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As you will remember, at the beginning of that hearing you took a sworn oath to testify truthfully. And under oath, as the enclosed transcript indicates, you responded to my questions by saying:

You're certainly welcome to the tape. I know that advertising and promotion was around there. I don't know if there is a tape for you to look at.

After the hearing concluded, I received additional information about the rumor and videotapes. In a February 16, 2001, letter to you, I wrote the following:

I would hope that this allegation falls into the category of urban myth and not as a serious example of blatant and inappropriate interference, but it is important to settle the matter. The accusation alleges that on election night Mr. Welch periodically stopped by the decision desk to survey the status of the election. Mr. Welch reportedly cheered when things appeared to favor George W. Bush and hissed when they appeared to favor Al Gore. At one point, he allegedly said to someone at the decision desk, "What would I have to give you to call the race for Bush?" The most serious allegation, as far as I'm concerned, is that he was responsible for giving the order to call the election for George W. Bush.

I have been told that two tapes exist that would either prove or debunk the allegation. One, which is reportedly more comprehensive and of higher quality, is said to be in a closet in the office of Frank Raddis, NBC's East Coast head of advertising and promotion. This tape was reportedly made to capture the decision desk's activities during election night for potential advertising and promotional purposes. The second tape allegedly was made by Steve Fastook and/or John Larrouso with a 'high 8' handheld camera. This tape is reportedly not as comprehensive as the first tape but shows Mr. Welch pressuring the desk to call the election for George W. Bush.

I concluded this letter by asking "that you determine whether the Raddis and Fastook/Larrouso tapes exist, and if they do exist, to forward them to me by February 21, 2001." I am also enclosing this letter for your convenience, as well as all the subsequent correspondence between us.

In your February 22, 2001, letter to me, you did not address the information I provided nor did you respond to the specifics of either the Raddis or Fastook/Larrouso tapes. Instead, you said:

To suggest that he [Mr. Welch] somehow took control of the program and was "responsible for giving the order to call the election for George W. Bush" is absurd. I was there and in charge. It just didn't happen. So there can be no videotape showing that it did.

Mr. Andrew Lack
August 2, 2001
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You closed your letter by writing, "I believe that your letter, citing unfounded rumors and requesting internal videotapes, moves beyond the line of what is reasonable in this regard." This position, obviously, contradicted your sworn testimony on February 14 that you would provide the tape if it existed.

On March 15, 2001, I wrote you again. In this letter I pointed out that your response did not address the specific questions I asked or the information I provided regarding the Raddis or Fastook/Larrouso videotapes. Because you had not been responsive, I asked a series of specific questions aimed at resolving whether the tapes existed, whether they had been destroyed, and whether you would honor your February 14 commitment to provide the tapes to me. In addition, I noted that because these tapes were made for advertising and promotional purposes, they did not raise First Amendment questions or compromise the integrity of your newsroom's decision-making process.

In addition, I took care, as I have throughout this process, to make sure I made no allegation about Mr. Welch's conduct and wrote:

I continue to hope, as I indicated in my February 16, 2001 letter, that the rumor about Mr. Welch's conduct is nothing more than an urban myth. But to reach that conclusion I need factual answers to my questions. I am confident that reporters in your own news division would consider your February 22 response wholly inadequate if it were provided by a government official in response to a journalist's question.

In your April 20, 2001 response, you again pointedly avoided answering any of the specific questions I had forwarded to you. You again reiterated that Mr. Welch "had no influence on our programming that night." And though you did not concede that videotapes existed, you now wrote that "I hope you will understand that it would be highly inappropriate for us to share any such tapes with the Government."

I need to point out again that this position is a complete reversal from your sworn testimony on February 14. As I mentioned earlier, at that time you raised no reservations about the appropriateness of providing the videotapes and testified under oath that you would do so if they existed.

By the time I wrote you again on July 11, 2001, I had learned that the advertising and promotion tape unquestionably existed and was in NBC's possession. For a fourth time, I again asked that you directly respond to my questions and provide the videotape that would resolve this matter. And once again, I was careful not to make any allegations about Mr. Welch or impugn the integrity of anyone at NBC or General Electric. In fact, throughout these past six months, I have neither sought media attention in this matter nor issued inflammatory characterizations about the lack of cooperation I have encountered. Most importantly, despite your refusal to provide responsive information, I have reached no conclusions on what actually happened during NBC's election night broadcast.

Mr. Andrew Lack
August 2, 2001
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This is why your July 31 letter is so disappointing to me. It does not address any of the issues I have raised and it expressly contradicts your sworn commitment to provide the video to me. And it concludes by informing me, "As far as we are concerned this matter has now been brought to a close."

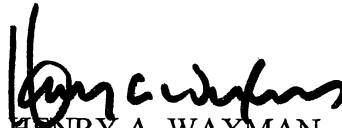
As a Member of Congress who believes the House of Representatives has an essential role in responsible oversight, I am offended by this arrogant assertion. It wouldn't reflect well on any organization, but is especially inappropriate for a company that prides itself on uncovering truth and depends on public confidence for its continued credibility.

I have also learned through the years – in investigating the tobacco companies and other industries – that when committee witnesses are evasive and refuse to answer direct questions, it's best to continue asking questions and not simply let the matter drop. This is especially important when committee witnesses promise – under oath – to supply requested information. So I respectfully decline to close this matter.

I hope that in reviewing the record I have summarized that you will decide to honor your original sworn commitment to provide the information I am seeking. I further urge you to bear in mind the requirements of 18 U.S.C. section 1508. This section makes it a federal crime to alter or destroy the videotapes that I requested during the Committee hearing on February 14. Specifically, section 1508 provides that it is illegal to "corruptly...obstruct[] or impede[]...the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress."

If the information that I have requested is not provided by September 4, 2001, I will be required to seek other means of compelling the production of the Raddis and Fastook/Larrouso videotapes.

Sincerely,


HENRY A. WAXMAN
Member of Congress

Enclosures

Mr. SAVAGLIO. Well, it was inaccurate, correct. It was a considerable amount, 359,000 votes.

Chairman TAUZIN. Almost twice as much were really out. The screen also says that for Al Gore to have a chance to carry Florida at that moment on that screen that he needed to get 63 percent of vote.

Mr. SAVAGLIO. Right.

Chairman TAUZIN. Was that information forwarded to all of the networks at that hour of the night?

Mr. SAVAGLIO. Well, that was on their screens and I appreciate that you've asked me the one question that you don't have to be a statistician to answer because I'm not. The outstanding vote calculation is a very simple, call it crude if you want, calculation. It simply states the number of precincts that have reported out of the total number that are to report. It takes and divides that and assumes all precincts are the same size.

Chairman TAUZIN. But they're not.

Mr. SAVAGLIO. But they're not. And so it's simply a ratio. If 50 percent of the precincts are in and there's 1,000 votes, it assumes the next 50 percent are going to be another 1,000 votes. And the reason the calculation is put in that way is to give the information that's available. It's not possible to—in most cases to get the particular precincts or at least it's not possible in a reporting fashion to put into our system the specific precincts and their size and the number of votes from each one as to come up with a more specific number.

Chairman TAUZIN. But the bottom line is you gave the networks that night on the VNS screen some relatively inaccurate information, right?

Mr. SAVAGLIO. Yeah, there's no question about that.

Chairman TAUZIN. Thank you. Mr. Waxman.

Mr. WAXMAN. Thank you very much, Mr. Chairman. There has been criticism, and I mentioned it earlier in my opening statement, that John Ellis, who was President Bush's cousin and who had talked with Mr. Bush, Governor Bush, now President Bush, throughout the election night was responsible for Fox's decision to be the first network to declare George Bush the winner of Florida and the presidency.

Mr. Lack, I'd like to know if you would walk me through the process at NBC on election night. Who at NBC had the responsibilities assigned to John Ellis at Fox?

Mr. LACK. A gentleman, Dr. Sheldon Gliser, who is director of our election desk.

Mr. WAXMAN. There is an allegation making the rounds that Jack Welch actually intervened in NBC's decision to call the election for George Bush. I don't know if you've heard that rumor before. I would like to lay it out there and have you comment on it.

Mr. LACK. I have heard the rumor and it's untrue.

Mr. WAXMAN. Well, I would hope the allegation is untrue. If it were, it would be absolutely inappropriate. But I've been told that Mr. Welch's actions were observed by others and in fact were even captured on tape, filmed by NBC's advertising and promotions department. It's difficult for me to believe it's true, but it seems there is a simple way to either verify or debunk this allegation. I would

like to have you, if you would assure us that we would get that tape and, Mr. Chairman, I would like to ask you if you would to make sure that we have any subpoena that might be necessary so that if there is such a tape that we have it available to us.

Chairman TAUZIN. Pursuant to our rules, we will take that under advisement.

Mr. WAXMAN. Mr. Lack.

Mr. LACK. You're certainly welcome to the tape. I know that advertising and promotion was around there. I don't know if there is a tape for you to look at. I was aware that Mr. Welch was there. I observed him. He was in the building to attend a political party, network party, and he was invited down to observe on a very historic night and a very exciting election night how we were doing and what we were doing, and that's precisely the manner in which he was there. I think it's unfortunate that some rumors would get started that because he observed our election night process at that point that that would somehow like in a Rashoman-like tale turn out to be that he intervened in the election process, which is untrue and rather foolish, but that's rumor.

Mr. WAXMAN. And you yourself were there at the time?

Mr. LACK. Yes, I saw him. I can state categorically that it's just a dopey rumor, truly dopey.

Mr. WAXMAN. Thank you very much. Thank you, Mr. Chairman.

Chairman TAUZIN. Very good. Mr. Stearns I believe is next. He's not here. Mr. Burr.

Mr. BURR. Mr. Chairman, thank you. And since I was not here when this panel was seated let me take this opportunity to welcome all of you. I am not sure if the chairman asked but I would like to get a response from each of you as to whether your representative medias plan to use exit polling in the future.

Mr. LACK. I'm sorry, could you ask that again?

Mr. BURR. If in fact your company plans to use exit polling in the future.

Mr. LACK. We do.

Mr. BURR. You do.

Mr. AILES. We will also do it. It's under review what we will tell the audience about exit polling. We believe there was not enough disclosure and definition to some of the terms used, light projection and exit polling and so on, and so the answer is we will use the information as long as we believe it is not misleading to the audience in some way.

Mr. JOHNSON. CNN will use exits polls provided we are convinced of the reliability of the exit poll process, the exit poll methodology.

Mr. BURR. Could I stop you there and just ask you what would it take to convince you of the accuracy of the exit polling given that the person who is being polled has the ability to tell you the truth or an untruth?

Mr. JOHNSON. We would need to determine statistically, if possible, to what extent we were getting misrepresentation. I do not believe there is a good answer to an outright lie.

Mr. BURR. There is certainly not a perfect answer, but you raised exactly the point I wanted to get at, that at this point in this process the statistical accuracy was important. I would like for the rest

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DEMOCRATIC STEERING COMMITTEE

Congress of the United States
House of Representatives
Washington, DC 20515-0529

HENRY A. WAXMAN
29TH DISTRICT, CALIFORNIA

February 16, 2001

Mr. Andrew Lack
President
NBC News
30 Rockefeller Plaza
New York, New York 10112-0002

Dear Mr. Lack,

I am writing to thank you for testifying at the House Energy and Commerce Committee's February 14, 2001 hearing, "Election Night 2000 Coverage by the Networks," and to follow up on a matter I raised with you at the hearing.

As you know, I asked you about a troubling rumor that General Electric Company's Chairman and CEO, John F. Welch, interfered with NBC's 2000 election results. I would hope that this allegation falls into the category of urban myth and not as a serious example of blatant and inappropriate interference, but it is important to settle the matter. The accusation alleges that on election night Mr. Welch periodically stopped by the decision desk to survey the status of the election. Mr. Welch reportedly cheered when things appeared to favor George W. Bush and hissed when they appeared to favor Al Gore. At one point, he allegedly said to someone at the decision desk, "What would I have to give you to call the race for Bush?" The most serious allegation, as far as I am concerned, is that he was responsible for giving the order to call the election for George W. Bush.

I have been told that two tapes exist that would either prove or debunk the allegation. One, which is reportedly more comprehensive and of higher quality, is said to be in a closet in the office of Frank Raddis, NBC's East Coast head of advertising and promotion. This tape was reportedly made to capture the decision desk's activities during election night for potential advertising and promotional purposes. The second tape allegedly was made by Steve Fastook and/or John Larrouso with a "high 8" handheld camera. This tape is reportedly not as comprehensive as the first tape but shows Mr. Welch pressuring the desk to call the election for George W. Bush.

At the hearing, you told members of the committee that you were at the decision desk during election night and confirmed that Mr. Welch and individuals with cameras were also there. You also informed the committee that you did not observe Mr. Welch pressure anyone to declare George W. Bush the winner, and your assurance on this point was very helpful.

Mr. Andrew Lack

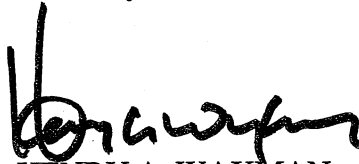
Page 2

February 16, 2001

I know you share my interest in conclusively resolving this issue, and appreciate your stated willingness to provide any information to me and the Energy and Commerce Committee. Accordingly, I ask that you determine whether the Raddis and Fastook/Larrouso tapes exist, and if they do exist, to forward them to me by February 21, 2001.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Henry A. Waxman", written over a horizontal line.

HENRY A. WAXMAN
Member of Congress



February 22, 2001

The Honorable Henry A. Waxman
Congress of the United States
House of Representatives
2204 Rayburn House Office Building
Washington, DC 20515-0529

Dear Congressman Waxman:

Thank you for your letter of February 16th.

As I testified during the House Commerce Committee's hearing last week, Jack Welch in no way intervened in, interfered with, or influenced NBC News's election-night broadcast. To suggest that he somehow took control of the program and "was responsible for giving the order to call the election for George W. Bush" is absurd. I was there and in charge. It just didn't happen. So there can be no videotape showing that it did.

While I hope that I have made it abundantly clear that Mr. Welch had absolutely no involvement in our election-night decision making, I do appreciate the fact that Congressman Tauzin and other members of the Committee assured those testifying that there would be no attempt by Congress to insert itself, in any form, into our editorial processes. Respectfully, I believe that your letter, citing unfounded rumors and requesting internal videotapes, moves beyond the line of what is reasonable in this regard.

Sincerely,

A handwritten signature in dark ink, appearing to be "A. Luck", written over a horizontal line.

cc: The Honorable W. J. "Billy" Tauzin
The Honorable John D. Dingell

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Congress of the United States
House of Representatives
Washington, DC 20515-0529

HENRY A. WAXMAN
29TH DISTRICT, CALIFORNIA

March 15, 2001

Mr. Andrew Lack
President
NBC News
30 Rockefeller Plaza
New York, New York 10112-0002

Dear Mr. Lack,

Thank you for your response to my February 16, 2001 letter regarding allegations that John F. Welch interfered with NBC's 2000 election decision-making process. I assume you intended your letter to be responsive to my inquiry, but your choice of words was curious and, unfortunately, raised more questions than it answered.

You can rest assured that I have no interest in compromising the integrity of your newsroom's decision-making process. As you may know, I have always been a steadfast supporter of the First Amendment and an outspoken opponent of government interference in expressions of speech.

When I raised the rumor regarding Mr. Welch at the February 14, 2001 hearing and in my subsequent letter, I fully expected to be reassured that there was no truth to it. Unfortunately, your letter has had the opposite effect. I asked you a simple, direct question and you responded with an artful and transparent rhetorical evasion.

In my letter, I provided specific information about the reported existence of an advertising and promotional videotape and requested that you determine whether the Raddis and/or Fastook/Larrouso tapes existed. Instead of providing me with that information, you responded with syllogistic reasoning: Mr. Welch did not interfere, therefore, "there can be no videotape showing" he interfered.

While I am comforted by your personal assurance, I would be much happier if you or someone else could actually check to see whether the videotapes exist. I want to point out again that my understanding is that the alleged videotapes were made for advertising and promotional purposes. Ascertaining their existence and, if they do exist, providing them to the Energy and Commerce Committee would in no way impinge on the First Amendment.

Mr. Andrew Lack

March 15, 2001

Page 2

So that there is no confusion, I want to be very clear on what I am requesting. Please provide direct answers to the following questions:

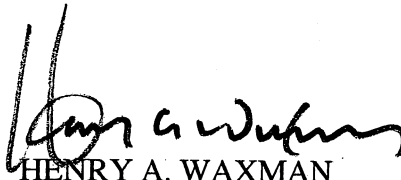
- Is there or has there ever been an advertising and promotional videotape of election night 2000 that captured the decision desk's activities during election night? If so, is a copy of that tape in the office closet of Frank Raddis? If it is not in the office closet of Frank Raddis, is it in another location?
- Is there or has there ever been an advertising and promotional videotape made by Steve Fastook and/or John Larrouso on election night 2000 with a "high 8" held camera?
- If one or both of these tapes exist, will you provide them to me and the Energy and Commerce Committee?
- If these tapes did exist but have been destroyed, please provide the date they were destroyed and any explanation for that action.

I continue to hope, as I indicated in my February 16, 2001 letter, that the rumor about Mr. Welch's conduct is nothing more than an urban myth. But to reach that conclusion I need factual answers to my questions. I am confident that reporters in your own news division would consider your February 22 response wholly inadequate if it were provided by a government official in response to a journalist's question.

Thank you for your cooperation, and please provide the information I have requested by Monday, March 26, 2001.

With kind regards, I am

Sincerely,



HENRY A. WAXMAN
Member of Congress

HAW:pd



APR 24 2001

April 20, 2001

The Honorable Henry A. Waxman
Congress of the United States
House of Representatives
2204 Rayburn House Office Building
Washington, DC 20515-0529

Dear Congressman Waxman:

I am in receipt of your letter of March 15th, in which you once again raise allegations that Jack Welch, GE's chairman, interfered with NBC's election night broadcast.

I think it important that I state again that Mr. Welch had no influence whatsoever over our programming that night. I don't know how the allegation of his intervention got started, but there is absolutely nothing to it. To suggest that Mr. Welch influenced our coverage is unfair both to him and to the NBC News professionals who would have had to compromise their standards.

In your letter you again ask questions about internal videotapes which may have chronicled the activities of our election-night decision desk. I hope you will understand that it would be highly inappropriate for us to share any such tapes with the Government. There is just no basis for a news organization to turn over material dealing with its editorial decision-making, especially when the grounds for the request is a baseless rumor that I have repeatedly stated is dead wrong.

Through my sworn testimony, and now through two letters to you, I have tried my best to put to rest this unfortunate, unfounded rumor. Respectfully, I ask that you accept my assurances and that this matter be brought to an end.

Sincerely,

A handwritten signature in black ink, appearing to be "A. Luck", written over a horizontal line.

cc: The Honorable W.J. "Billy" Tauzin
The Honorable John D. Dingell

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Congress of the United States
House of Representatives

Washington, DC 20515-0529

HENRY A. WAXMAN
29TH DISTRICT, CALIFORNIA

July 11, 2001

Mr. Andrew Lack
President and Chief Operating Officer
NBC
30 Rockefeller Plaza
New York, New York 10112-0002

Dear Mr. Lack,

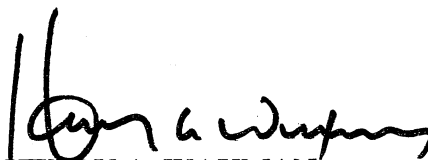
Congratulations on your recent promotion to President and Chief Operating Officer of NBC. I wish you every success in your new position.

I am writing in response to your letter replying to my March 15, 2001 letter regarding NBC's election night broadcast. I genuinely appreciate your personal representations that there was no inappropriate conduct on election night. Given your reputation for integrity, your assurances mean a great deal to me.

Nonetheless, I do want the specific questions raised in my March 15, 2001 letter answered (enclosed is a copy for your convenience) and the opportunity to review the advertising and promotional videotape that reportedly documented portions of NBC's election night broadcast process. I have not requested, nor am I requesting now, any material regarding your news-gathering or editorial decision-making processes. The information I am seeking is not protected by any First Amendment privilege, and I ask that it be provided to me by July 31, 2001.

Thank you for your cooperation.

Sincerely,



HENRY A. WAXMAN
Member of Congress

cc: The Honorable W.J. Billy Tauzin
The Honorable John D. Dingell



July 31, 2001

The Honorable Henry A. Waxman
Congress of the United States
House of Representatives
2204 Rayburn House Office Building
Washington, DC 20515-0529

Dear Congressman Waxman:

Thank you for the congratulations in your July 11 letter and for your acknowledgement that my personal assurances regarding the integrity of NBC News' election night coverage "mean a great deal" to you.

I regret that these assurances, including my sworn testimony and follow-up letters to you clearly denying unfounded "rumors" about Mr. Welch's affecting our election coverage, are still not satisfactory. NBC has cooperated fully with the House Commerce Committee's comprehensive, bipartisan review of the networks' election night coverage and with the Committee's investigators. We have answered every reasonable question asked from both sides of the aisle. As you are well aware, all of the networks agree that there were flaws in the VNS methodology and data collection. We are committed not to repeat these mistakes.

Your continued pursuit of videotapes and unfounded "rumors" cannot be explained by any objective view of the facts. These "rumors" are simply absurd. As you recall, all of the networks made the identical calls at virtually the identical times.

As I have said to you previously, there is simply no basis for a news organization to turn over its internal materials, especially when the grounds for the request is a baseless "rumor" that is dead wrong.

As far as we are concerned this matter has now been brought to a close.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Lack", written over a horizontal line.

cc: The Honorable W.J. "Billy" Tauzin
The Honorable John D. Dingell